

REMARKS

This response addresses the issues raised by the Examiner in the Office Action mailed September 2, 2003. Initially, Applicants would like to thank the Examiner for the careful consideration given this case. Claims 1-6 are presently pending. Claim 7 is newly introduced herein. In view of the above amendments and the following remarks, Applicants respectfully submit that the presently-pending claims are in form for allowance and notification of such is respectfully requested.

Applicants note that in amending Claims 4 and 6, they have employed double brackets to indicate the amendment of the reference number. This practice is prescribed by and consistent with the newly-issued Revised Amendment Practice.

The Examiner notes that the Applicants have not provided a certified copy of the Spanish application. The Applicants are in the process of obtaining a certified copy of that application and will provide it to the Examiner as soon as it is available.

The Examiner objects to the drawings and abstract in that the reference number "8" is not used in the specification. Applicants have amended the specification by the inclusion of the reference number "8" into the specification at the appropriate point. Applicants submit that no new matter has been introduced by this amendment. Reconsideration of this objection is respectfully requested.

The Examiner notes that 37 C.F.R. § 1.52(b) requires that the pages of the specification be numbered. Applicants submit herewith a copy of the body of the specification wherein the pages are numbered, said numbers being centrally located below the text. Reconsideration of this objection is respectfully requested. **It is respectfully requested that no new matter has been introduced by the submission of the substitute specification.**

The Examiner objects to Claims 2, 5, and 6 because of certain language informalities, as noted by the Examiner. Applicants have amended the referenced claims to address these concerns of the Examiner. Reconsideration of these objections is respectfully requested.

The Examiner has rejected Claims 1-6 under 35 U.S.C. §112, ¶2 as being indefinite for failing to particularly point out and distinctly claim the subject matter that the Applicants regard as the invention. In particular, the Examiner has pointed out particular problems with the antecedent bases of certain claim terms in Claims 1 and 2. Applicants have amended Claims 1 and 2 to address these concerns of the Examiner.

The Examiner objects to Claims 3 and 4 under 37 C.F.R. § 1.75(c) as being in improper form because a multiple dependent claim should refer to other claims in the alternatively only. Claims 3 and 4 have been amended in a manner consistent with the Preliminary Amendment of August 28, 2000 to address the concerns of the Examiner. Reconsideration and withdrawal of these objections and rejections are respectfully requested.

The Examiner rejects Claims 1-3 and 5 under 35 U.S.C. § 102(b) as being anticipated by Sanderne (FR 719,778; the '778 patent). The Sanderne reference shows a body that is shaped like a human foot and has a short arm at the top. The Examiner asserts that this satisfies the limitations of Claims 1-3 and 5. However, Claims 1-3 and 5 also recites that top of the body has a short arm emerging therefrom. In addition, the short arm ends in a handle. While the apparatuses of Sanderne may possess short arms, these arms clearly do not end in a handle (*see* Figs. 1-5 of Sanderne). The Examiner suggests that reference number 16 in Sanderne is handle. However, as is clearly indicated by the threads found at 14a and 15a, the structure at 16 is used to adjust the length of the foot-like body. The Examiner has pointed to no aspect of the Sanderne reference that indicates that the structure represented by reference number 16 may be used as a handle.

As is clear, Sanderne is distinguishable over the presently-pending claims of the current application in that it does not contain each and every claim limitation of Claims 1-3 and 5. As the Examiner is aware, a claim is anticipated by a prior art reference if, and only if, each and every claim limitation may be found, either expressly or inherently described, in a single prior art reference. MPEP § 2131.01. It is respectfully submitted that the cited reference does not satisfy this requirement. Accordingly, this rejection under § 102(b) is inappropriate. Reconsideration and withdrawal of this rejection is respectfully requested.


The Examiner rejects Claims 4 and 6 under 35 U.S.C. § 103(a) as being obvious over Sanderne in view of Cumbie (U.S. Patent No. 5,040,813; the '813 patent). As above, it is respectfully submitted that Sanderne does not teach each and every claim limitation as set forth in Claims 4 and 6. Further, Cumbie does not cure this deficiency of Sanderne. As the Examiner is aware, to establish a *prima facie* case of obviousness of a claimed invention, all of the claim limitations must be taught or suggested in the cited references. MPEP § 2143.01. It is submitted that Sanderne and Cumbie, taken alone or in combination, do not satisfy this requirement in the claims as presently amended. Reconsideration and withdrawal of this rejection are respectfully requested.

Applicants wish to thank the Examiner for suggesting that the specific method of use of the present invention in conjunction with the specific structures of the present invention may be distinguish patentably over the prior art of records. On this basis, Applicants have submitted newly-introduced method Claim 7 for examination. For completeness of the record, Applicants indicate disagreement with the Examiner's characterization that the structural limitations of the apparatuses of the present invention are old and well known.

The above amendments and accompanying remarks address each and every concern raised by the Examiner in the Office Action. Based on these clarifying amendments, Applicant believes that all claims of the present invention are now in condition for final allowance. As outlined above, each of these amendments is fully supported throughout the specification, and no new matter is introduced by these amendments. If the Examiner feels that any issues remain outstanding, the Examiner is encouraged to contact Applicant's attorney at the contact information below.

Respectfully submitted,

Dated: March 2, 2004


By _____
Jules E. Goldberg
Reg. No. 24,408

REED SMITH LLP
599 Lexington Avenue
29th Floor
New York, NY 10022-7650
(212) 521-5400

Attorney for Applicant